



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-014]

#### **53-Foot Domestic Dry Containers from the People's Republic of China: Final Determination of Sales at Less than Fair Value; Final Negative Determination of Critical Circumstances**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Commerce.

**SUMMARY:** The Department of Commerce (the Department) determines that imports of 53-foot domestic dry containers (domestic dry containers) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final weighted-average dumping margins for the investigation on domestic dry containers from the PRC are listed below in the "Final Determination" section of this notice.

**DATES:** *Effective:* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Brian Davis (Singamas), John Drury (CIMC), or Angelica Townshend, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-7924, (202) 482-0195 or (202) 482-3019, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

On November 26, 2014, the Department published the preliminary determination of the LTFV investigation of domestic dry containers from the PRC in the *Federal Register*.<sup>1</sup> The following events occurred since then. On December 9, 2014, we received scope comments from interested parties Crowley Maritime Corporation and Crowley Liner Services, Inc., and Sea Star Lines LLC (collectively, “Crowley”). On December 1, 2014, respondent Singamas<sup>2</sup> submitted timely ministerial error allegations with respect to the Department’s calculation the weighted-average dumping margin for Singamas.<sup>3</sup> Also on December 1, 2014, Petitioner<sup>4</sup> submitted ministerial error allegations<sup>5</sup> with respect to respondent CIMC.<sup>6</sup> We received no rebuttal comments regarding these allegations. On December 31, 2014, we published the amended preliminary determination in the *Federal Register*.<sup>7</sup> Between January 12, 2015, and January 23, 2015, the Department conducted verification of the mandatory respondents CIMC and Singamas. The Department issued the sales and factors-of-production verification reports for both CIMC and Singamas on February 26, 2015.<sup>8</sup> On March 10, 2015, Petitioner, Crowley, CIMC, and

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<sup>1</sup> See *53-Foot Domestic Dry Containers From the People’s Republic of China: Preliminary Determination of Sales at Less than Fair Value; Preliminary Negative Determination of Critical Circumstances; and Postponement of Final Determination and Extension of Provisional Measures*, 79 FR 70501 (November 26, 2014) (*Preliminary Determination*).

<sup>2</sup> Singamas consists of Hui Zhou Pacific Container Co., Ltd., Qingdao Pacific Container Co., Ltd., Qidong Singamas Energy Equipment Co., Ltd., and their holding company Singamas Container Holding Limited.

<sup>3</sup> See Singamas’ Letter to the Department, “53-Foot Domestic Dry Containers from the People’s Republic of China: Ministerial Errors in the Preliminary Determination,” dated December 1, 2014.

<sup>4</sup> Petitioner is Stoughton Trailers, LLC.

<sup>5</sup> Petitioner’s Letter to the Department, “53-Foot Domestic Dry Containers from the People’s Republic of China,” dated December 1, 2014.

<sup>6</sup> CIMC consists of China International Marine Containers (Group) Co., Ltd., China International Marine Containers (HK) Ltd., Xinhui CIMC Special Transportation Equipment Co., Ltd., Nantong CIMC-Special Transportation Equipment Manufacture Co., Ltd., and Qingdao CIMC Container Manufacture Co., Ltd.

<sup>7</sup> See *53-Foot Domestic Dry Containers from the People’s Republic of China: Amended Preliminary Determination of Sales at Less-than-Fair-Value*, 79 FR 78800 (December 31, 2014) (*Amended Preliminary Determination*).

<sup>8</sup> See Verification of the Sales and Factors of Production Response of CIMC International Marine Containers (Group) Co., Ltd. (“CIMC Group”); China International Marine Containers (HK) Ltd. (“CIMC HK”); Guangdong Xinhui CIMC Special Transportation Equipment Co., Ltd. (“Xinhui Special”); Qingdao CIMC Containers

Singamas filed case briefs (which included scope comments). On March 16, 2015, Petitioner, Crowley, CIMC, and Singamas filed rebuttal briefs (which included scope comments). The Department did not hold a hearing as all requests for a hearing were withdrawn.

#### Period of Investigation

The period of investigation (POI) is October 1, 2013, through March 31, 2014.

#### Scope Comments

The Department received comments regarding the scope of this investigation from interested parties. As detailed in the accompanying Issues and Decision Memorandum,<sup>9</sup> we have not made any changes to the scope.<sup>10</sup>

#### Scope of the Investigation

The merchandise subject to investigation is closed (*i.e.*, not open top) van containers exceeding 14.63 meters (48 feet) but generally measuring 16.154 meters (53 feet) in exterior length, which are designed for the intermodal transport<sup>11</sup> of goods other than bulk liquids within North America primarily by rail or by road vehicle, or by a combination of rail and road vehicle (domestic containers). Imports of the subject merchandise are provided for under subheading 8609.00.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Imports of the

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Manufacture Co., Ltd. (“Qingdao”); Nantong CIMC-Special Transportation Equipment Manufacture Co., Ltd. (“Nantong”); and Xinhui CIMC Container Co., Ltd. (“Xinhui Container”) (collectively “CIMC”) in the Antidumping Duty Investigation of 53-Foot Domestic Dry Containers (“domestic dry containers”) from the People’s Republic of China (the “PRC”), dated February 26, 2015 (CIMC Verification Report); and Verification of the Sales and Factors of Production (FOPs) Response of Hui Zhou Pacific Container Co., Ltd. (HPCL); Qingdao Pacific Container Co., Ltd. (QPCL); Qidong Singamas Energy Equipment Co., Ltd. (QSCL); Singamas Container Holdings Limited (SCHL); and Singamas Management Services Limited (SMSL) (collectively, Singamas) in the Antidumping Duty Investigation of 53-Foot Domestic Dry Containers (domestic dry containers) from the People’s Republic of China (the PRC), dated February 26, 2015 (Singamas Verification Report).

<sup>9</sup> See Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding “53-Foot Domestic Dry Containers from the People’s Republic of China: Issues and Decision Memorandum for the Final Determination of Sales at Less than Fair Value,” dated concurrently with this notice (Issues and Decision Memorandum).

<sup>10</sup> See the Issues and Decision Memorandum at section, “Scope of the Investigation.”

<sup>11</sup> “Intermodal transport” refers to a movement of freight using more than one mode of transportation, most commonly on a container chassis for on-the-road transportation and on a rail car for rail transportation.

subject merchandise which meet the definition of and requirements for “instruments of international traffic” pursuant to 19 U.S.C. 1322 and 19 C.F.R. 10.41a may be classified under subheading 9803.00.50, HTSUS. For a complete description of the scope of the investigation, *see* Appendix II to this notice.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Issues and Decision Memorandum accompanying this notice, which is hereby adopted by this notice. A list of the issues which the parties raised and to which the Department responded in the memorandum appears in Appendix I of this notice. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://iaaccess.trade.gov> and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the memorandum are identical in content.

#### Changes Since the Amended Preliminary Determination

Based on our review and analysis of the comments received from parties, and minor corrections presented at verification, we made certain changes to CIMC’s and Singamas’s margin calculations since the *Amended Preliminary Determination*. For a discussion of these changes, *see* the Issues and Decision Memorandum and the Final Analysis Memoranda, all dated concurrently with this notice.<sup>12</sup>

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<sup>12</sup> *See* Final Analysis Memorandum for the PRC-Wide Entity, and Final Analysis Memorandum for Hui Zhou Pacific Container Co., Ltd. (HPCL), Qingdao Pacific Container Co., Ltd. (QPCL), Qidong Singamas Energy

### Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation.<sup>13</sup> Policy Bulletin 05.1 sets forth this practice.<sup>14</sup>

### Final Determination

The Department determines that the following estimated weighted-average dumping margins exist for the period October 1, 2013, through March 31, 2014:

Exporter	Producer	Weighted-Average Dumping Margin (Percent)
Hui Zhou Pacific Container Co., Ltd./Qingdao Pacific Container Co., Ltd./Qidong Singamas Energy Equipment Co., Ltd./Singamas Management Services Limited	Hui Zhou Pacific Container Co., Ltd./Qingdao Pacific Container Co., Ltd./Qidong Singamas Energy Equipment Co., Ltd.	111.22
PRC-Wide Entity <sup>15</sup>		107.19

### Disclosure

We intend to disclose to parties the calculations performed in this proceeding within five days of any public announcement of this notice in accordance with 19 CFR 351.224(b).

### Final Negative Determination of Critical Circumstances

No parties made any comments on our critical circumstances analysis announced in the *Preliminary Determination*, which is hereby adopted by this notice. In the Preliminary

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Equipment Co., Ltd. (QSCL), and Singamas Management Services Limited (SMSL) and their holding company Singamas Container Holdings Limited (collectively, Singamas), dated April 10, 2015.

<sup>13</sup> See *53-Foot Domestic Dry Containers From the People's Republic of China: Initiation of Antidumping Duty Investigations*, 79 FR 28674, 28683 (May 19, 2014) (*Initiation Notice*).

<sup>14</sup> See Enforcement and Compliance Policy Bulletin No. 05.1 "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on the Department's Website at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>15</sup> As detailed in the Issues and Decision Memorandum, we continue to find that CIMC did not demonstrate that it is entitled to a separate rate, and we consider CIMC to be the PRC-Wide Entity.

Determination, the Department stated that it did not preliminarily find critical circumstances because Petitioner did not allege that there has been a history of dumping and material injury pursuant to section 733(e)(1)(A)(i) of the Act and did not provide any evidence that importers knew or should have known that there was likely to be material injury by reason of such sales in a situation where the U.S. industry has not been established.<sup>16</sup> Thus, pursuant to 735(a)(3) of the Act, we continue to find that critical circumstances do not exist with respect to imports of domestic dry containers from the PRC from Singamas and the company covered by the PRC-wide rate.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of domestic dry containers from the PRC, as described in the “Scope of the Investigation” section of this notice and which were entered, or withdrawn from warehouse, for consumption on or after November 26, 2014, the date of publication of the *Preliminary Determination* in the *Federal Register*.

Pursuant to 19 CFR 351.205(d), we will instruct CBP to require a cash deposit<sup>17</sup> for all suspended entries at an *ad valorem* rate equal to the weighted-average amount by which normal value exceeds U.S. price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through,<sup>18</sup> as follows: (1) The cash deposit rate for the exporter/producer combination listed in the table above will be the rate identified for that combination in the table;

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<sup>16</sup> See *Preliminary Determination*, Preliminary Determination Memorandum at 27-28.

<sup>17</sup> See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

<sup>18</sup> See sections 772(c)(1)(C) and 777A(f) of the Act, respectively. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin-calculation program, but in the cash-deposit instructions issued to CBP. See *Notice of Final Determination of Sales at Less than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision memorandum at Comment 1.

(2) for all combinations of PRC exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the PRC-wide entity, 107.19 percent; and (3) for all non-PRC exporters of the merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension of liquidation and cash deposit instructions will remain in effect until further notice.

Furthermore, as stated above and consistent with our practice, we will instruct CBP to require a cash deposit equal to the amount by which the normal value exceeds export price or constructed export price, less the amount of any countervailing duty (CVD) determined to constitute an export subsidy. With respect to the PRC-wide entity (which is based on CIMC's data), export subsidies constitute 11.67 percent of CIMC's final calculated CVD rate in the companion CVD investigation. Therefore, we will offset the PRC-wide rate of 107.19 percent by the CVD rate attributable to export subsidies (*i.e.*, 11.67 percent) to calculate the final PRC-wide entity cash deposit rate for this LTFV investigation.<sup>19</sup> With respect to Singamas, export subsidies constitute 10.54 percent of Singamas's final calculated CVD rate in the companion CVD investigation. Therefore, we will offset Singamas's rate of 111.22 percent by the CVD rate attributable to export subsidies (*i.e.*, 10.54 percent) to calculate the final Singamas cash deposit rate for this LTFV investigation.<sup>20</sup>

We are also adjusting the preliminary cash deposit rate for estimated domestic subsidy pass-through for Singamas (*i.e.*, 5.87 percent). However, we are not adjusting the PRC-wide

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<sup>19</sup> See *53-Foot Domestic Dry Containers from the People's Republic of China: Final Affirmative Countervailing Duty Determination* and accompanying Issues and Decision Memorandum. The final determination in this companion CVD proceeding is being concurrently released on the same day as this final determination.

<sup>20</sup> *Id.*

entity final determination rate for estimated domestic subsidy pass-through because we have no basis upon which to make such an adjustment.

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we notified the International Trade Commission (ITC) of the final affirmative determination of sales at less than fair value. Because the final determination in this proceeding is affirmative, the ITC will make its final determination, in accordance with section 735(b)(2) of the Act, as to whether the domestic industry in the United States is materially injured, threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of domestic dry containers from the PRC no later than 45 days after our final determination. If the ITC determines that material injury, threat of material injury, or material retardation, does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury or material retardation does exist, then the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation. We are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.



### Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: April 10, 2015.

**Ronald K. Lorentzen,**  
*Acting Assistant Secretary*  
*for Enforcement and Compliance.*

## Appendix I

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. List of Issues
- III. Background
- IV. Scope of the Investigation
- V. Period of Investigation
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Changes Since the *Amended Preliminary Determination*
- VIII. Discussion of Interested Party Comments

#### **A. General Issues**

- Comment 1: Scope Exclusion Request
- Comment 2: Surrogate Value for Ocean Freight
- Comment 3: Surrogate Value for “Wood Flooring\_Other”
- Comment 4: Whether to Deduct Return Transportation Costs for Wide-Top Pick (WTP) Lift-Off Bars from U.S. Net Price

#### **B. CIMC-Specific Issues**

- Comment 5: Proper Valuation of Ocean Freight and Brokerage and Handling Expenses
- Comment 6: Alleged Unreported U.S. Brokerage and Handling Expenses
- Comment 7: Capping of Ocean Freight Revenue by Ocean Freight Expense
- Comment 8: Surrogate Value for Corner Castings
- Comment 9: Incorrect Calculation of CIMC’s “Wood Flooring\_Other” Surrogate Value
- Comment 10: Separate Rate Determination

#### **C. Singamas-Specific Issues**

- Comment 11: Surrogate Value for Hinges
- Comment 12: Steel Coil Factor-of-Production (FOP) Should Be Increased to Account for Yield Loss

- VII. Conclusion

## Appendix II

### Scope of the Investigation

The merchandise subject to investigation is closed (*i.e.*, not open top) van containers exceeding 14.63 meters (48 feet) but generally measuring 16.154 meters (53 feet) in exterior length, which are designed for the intermodal transport<sup>21</sup> of goods other than bulk liquids within North America primarily by rail or by road vehicle, or by a combination of rail and road vehicle (domestic containers). The merchandise is known in the industry by varying terms including “53-foot containers,” “53-foot dry containers,” “53-foot domestic dry containers,” “domestic dry containers” and “domestic containers.” These terms all describe the same article with the same design and performance characteristics. Notwithstanding the particular terminology used to describe the merchandise, all merchandise that meets the definition set forth herein is included within the scope of this investigation.

Domestic containers generally meet the characteristic for closed van containers for domestic intermodal service as described in the American Association of Railroads (AAR) Manual of Standards and Recommended Practices Intermodal Equipment Manual Closed Van Containers for Domestic Intermodal Service Specification M 930 Adopted: 1972; Last Revised 2013 (AAR Specifications) for 53-foot and 53-foot high cube containers. The AAR Specifications generally define design, performance and testing requirements for closed van containers, but are not dispositive for purposes of defining subject merchandise within this scope definition. Containers which may not fall precisely within the AAR Specifications or any successor equivalent specifications are included within the scope definition of the subject merchandise if they have the exterior dimensions referenced below, are suitable for use in intermodal transportation, are capable of and suitable for double-stacking<sup>22</sup> in intermodal transportation, and otherwise meet the scope definition for the subject merchandise.

Domestic containers have the following actual exterior dimensions: an exterior length exceeding 14.63 meters (48 feet) but not exceeding 16.154 meters (53 feet); an exterior width of between 2.438 meters and 2.60 meters (between 8 feet and 8 feet 6 3/8 inches); and an exterior height of between 2.438 meters and 2.908 meters (between 8 feet and 9 feet 6 1/2 inches), all subject to tolerances as allowed by the AAR Specifications. In addition to two frames (one at either end of the container), the domestic containers within the scope definition have two stacking frames located equidistant from each end of the container, as required by the AAR Specifications. The stacking frames have four upper handling fittings and four bottom dual aperture handling fittings, placed at the respective corners of the stacking frames. Domestic containers also have two forward facing fittings at the front lower corners and two downward facing fittings at the rear lower corners of the container to facilitate chassis interface.

All domestic containers as described herein are included within this scope definition, regardless of whether the merchandise enters the United States in a final, assembled condition, or as an unassembled kit or substantially complete domestic container which requires additional

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<sup>21</sup> “Intermodal transport” refers to a movement of freight using more than one mode of transportation, most commonly on a container chassis for on-the-road transportation and on a rail car for rail transportation.

<sup>22</sup> “Double-stacking” refers to two levels of intermodal containers on a rail car, one on top of the other.

manipulation or processing after entry into the United States to be made ready for use as a domestic container.

The scope of this investigation excludes the following items: 1) Refrigerated containers; 2) trailers, where the cargo box and rear wheeled chassis are of integrated construction, and the cargo box of the unit may not be separated from the chassis for further intermodal transport; 3) container chassis, whether or not imported with domestic containers, but the domestic containers remain subject merchandise, to the extent they meet the written description of the scope. Imports of the subject merchandise are provided for under subheading 8609.00.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Imports of the subject merchandise which meet the definition of and requirements for “instruments of international traffic” pursuant to 19 U.S.C. 1322 and 19 CFR10.41a may be classified under subheading 9803.00.50, HTSUS. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise as set forth herein is dispositive.

**BILLING CODE 3510-DS-P**

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